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DEPARTMENT OF EDUCATION

Exemplary Charter School Collaboration Awards; Proposed Definitions, Requirements, and Selection Criteria; Catalog of Federal Domestic Assistance (CFDA) Number 84.282P

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice.

SUMMARY: The Assistant Deputy Secretary for Innovation and Improvement proposes definitions, requirements, and selection criteria for the Exemplary Charter School Collaboration Awards (Collaboration Awards) and may use these definitions, requirements, and selection criteria for a competition in fiscal year (FY) 2012 and later years. The Assistant Deputy Secretary is taking this action to create incentives for charter schools (as defined in section 5210(1) of the Elementary and Secondary Education Act of 1965, as amended (ESEA)) to (a) collaborate with non-chartered public schools (as defined in this notice) and non-chartered local educational agencies (LEAs) to share and transfer best educational and operational practices at the elementary and secondary school levels;

and (b) disseminate information about these collaborations across the Nation.

The Collaboration Awards competition would be designed to encourage charter schools and non-chartered public schools or non-chartered LEAs to share resources and responsibilities, build trust and teamwork, boost academic excellence in charter schools and non-chartered public schools alike, and provide students and their parents with a range of effective educational options.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Address all comments about this notice to Erin Pfeltz, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W255, Washington, DC 20202-5970; or to Nancy Paulu, U.S. Department of Education, 400 Maryland Avenue SW., room 4W246, Washington, DC 20202-5970.

If you prefer to send your comments by e-mail, use the following addresses: erin.pfeltz@ed.gov or nancy.paulu@ed.gov. You must include the phrase "Exemplary Charter School Collaboration Awards--Comments on Proposed Definitions, Requirements, and Selection Criteria" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Erin Pfeltz at (202) 205-3525 or by email at erin.pfeltz@ed.gov or Nancy Paulu at (202) 205-5392 or by email at nancy.paulu@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final definitions, requirements, and selection criteria, we urge you to identify clearly the specific proposed definition, requirement, or selection criterion that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed definitions, requirements, and selection criteria. Please let us know of ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's programs and activities.

During and after the comment period, you may inspect

all public comments about this notice in room 4W255, 400 Maryland Avenue, SW., Washington, DC, between 8:30 a.m. and 4:00 p.m. Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record:

On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program:

The purpose of the Charter Schools Program (CSP) is to increase national understanding of the charter school model by--

(1) Providing financial assistance for the planning, program design, and initial implementation of charter schools;

(2) Evaluating the effects of charter schools, including the effects on students, student academic achievement, staff, and parents;

(3) Expanding the number of high-quality charter schools available to students across the Nation; and

(4) Encouraging the States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount the States have typically provided for traditional public schools.

Background:

Over the past 20 years, the charter school movement has grown in size and significance. The first charter school opened in Minnesota in 1992; today more than 5,000 charter schools are spread across the Nation. As charter schools have increased in number and popularity, so too has the tension between charter schools and traditional public schools and LEAs, as they compete for students. We believe that encouraging and facilitating collaboration between charter schools and non-chartered public schools and non-chartered LEAs can help change this dynamic.

By encouraging charter schools, other public schools, and LEAs to work together as partners, the Department, through the Collaboration Awards competition, aims to increase national understanding of the charter school model. By creating partnerships and carrying out dissemination activities, non-chartered public schools and non-chartered LEAs would get first-hand experience with the

charter school model--freedom from some of the strict rules, regulations, and statutes that inhibit the flexible operation of traditional public schools and LEAs in exchange for increased accountability for producing certain results, as set forth in each school's charter. The Collaboration Awards competition would further support recent Federal initiatives that encourage Federal agencies to provide awards as incentives to stimulate innovation and promote agencies' core missions.

Authorized Activities:

The Collaboration Awards competition would be conducted as a part of the CSP's national activities. Under section 5205(a) of the ESEA, the Secretary reserves CSP funds to carry out a number of national activities, which may include, among other things, (a) providing information, training, and assistance to charter schools; (b) disseminating best or promising practices in charter schools to other public schools; (c) conducting evaluations or studies of the impact of charter schools on student achievement; and (d) providing other types of support and technical assistance to charter schools and other applicants for assistance under the CSP. The required activities that we are proposing for Collaboration Awards are within the scope of these authorized activities.

Collaboration Award grantees would collaborate, and disseminate information about the collaborations, in a broad range of areas within the scope of activities authorized under section 5205(a) of the ESEA. Awards would be based on the quality of existing or past collaboration activities as well as proposals in the grant applications for future collaboration activities, which could involve continuing, modifying, or expanding the existing or past model or models of collaboration. In making awards, the Secretary also would consider the quality of proposals to disseminate information or best practices regarding the collaboration activities upon which the award is based.

Program Authority:

The CSP is authorized under 20 U.S.C. 7221-7221i. CSP national activities are authorized under 20 U.S.C. 7221d.

PROPOSED DEFINITIONS

In addition to the definitions in section 5210 of the ESEA, which include the definition of charter school, we are proposing the following definitions for the Collaboration Awards competition. We may apply one or more of these definitions in any year in which we make awards under a Collaboration Awards competition.

Collaboration refers to the activities of a partnership in which two or more organizations or entities

work together to accomplish a common goal, which may involve sharing or transferring best practices or strategies.

Non-chartered local educational agency (LEA) refers to an LEA that does not qualify as a charter school as defined in section 5210(1) of the ESEA or under State law.

Non-chartered public school refers to a public school that does not qualify as a charter school under section 5210(1) of the ESEA or under State law.

Significant compliance issue means a violation that did, will, or could lead to the revocation of a school's charter.

Student achievement means--

(a) For tested grades and subjects: (1) A student's score on the State's assessments under the ESEA; and, as appropriate (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across schools.

(b) For non-tested grades and subjects: Alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools.

PROPOSED COMPETITION REQUIREMENTS

Background:

The Department proposes to use the Collaboration Awards competition to encourage collaboration between charter schools and non-chartered public schools and non-chartered LEAs, as well as to disseminate information and share or transfer best practices to improve educational and operational practices in public schools, including public charter schools. The Assistant Deputy Secretary for Innovation and Improvement proposes the following requirements to support these goals. The Department may apply one or more of these requirements in any year in which this competition is in effect.

Proposed Eligibility Requirements:

1. Eligible applicants are charter schools (as defined in section 5210(1) of the ESEA). In order to be eligible to receive an award under a Collaboration Awards competition, a charter school must apply in partnership with at least one non-chartered public school (as defined in this notice) or non-chartered LEA (as defined in this notice) and have the support of the partner(s) to participate in the competition. Multiple charter schools may be included in the partnership so long as they apply in partnership with each other and with at least one non-

chartered public school (as defined in this notice) or non-chartered LEA (as defined in this notice).

2. The partnership must comply with the requirements for group applications set forth in 34 CFR 75.127-129.

Note: Only an eligible party under the competition may apply for a grant or be the fiscal agent for a grant. Thus a non-chartered public school or a non-chartered LEA would not be eligible to be the lead applicant or fiscal agent for an exemplary charter school collaboration award.

3. An applicant may submit more than one application if each application proposes to carry out substantially different authorized activities.

4. Applicants may not have any significant compliance issues (as defined in this notice), including in the areas of student safety, financial management, and statutory or regulatory compliance.

Proposed Application Requirements:

An applicant for a Collaboration Award must--

(1) Provide a detailed narrative describing (a) the applicant's past or existing collaboration model or models (which may involve more than one area of collaboration or partner); (b) the applicant's proposal to continue, modify, or expand the collaboration model or models (which may include adding new areas of collaboration or partners); and

(c) the applicant's plan to disseminate information about the collaboration model or models (which may include information about best practices) to other public schools, including chartered schools, non-chartered schools, and non-chartered LEAs. The proposed collaboration model or models may focus on a wide range of areas within the scope of activities authorized under section 5205(a) of the ESEA, which includes, but is not limited to, curriculum and instruction, data management and sharing, organization and management, personnel, facilities, finances, Federal programs, standards, assessments, special education services, English learners, students with other special needs, student transportation, and professional development and training.

Note: In a particular year, the Secretary may restrict applications to one or more areas of focus or authorized activity under section 5205(a) of the ESEA.

(2) Provide written assurance from authorized officials of the entities involved in the partnership that all participants--

- Agree to submit an application for an award under the competition and have read, understand, and agree with the application for the competition; and

- Agree to have the executive summary or narrative of the application, with proprietary information redacted, published on the U.S. Department of Education's Web site (ed.gov), data.ed.gov, the National Charter School Resource Center Web site (charterschoolcenter.org), or any other Web site or publication deemed appropriate by the Secretary;

(3) Submit a partnership agreement that meets the requirements of 34 CFR 75.128(b).

(4) Provide a clear description of the goals and desired outcomes of the proposed collaboration and current or proposed measures that would be used to gauge success in meeting those goals and desired outcomes.

(5) Describe any past, existing, or anticipated obstacles to implementing the collaboration model or models or to disseminating information about the collaboration model or models, and the strategies that were or will be used to overcome those obstacles.

(6) Specify how the award money will be used to implement the collaboration model or models and to disseminate information about the collaboration model or models in accordance with section 5205(a) of the ESEA.

(7) Specify how the award money will be shared between the partners named in the application. If grant activities will be carried out by both the applicant (the

charter school) and its partner(s), the applicant must describe in the application and in the partnership agreement how the award money will be allocated between the partners, including the applicant.

Proposed Award Amounts and Funding Restrictions:

(1) The Department will announce in a notice inviting applications published in the Federal Register the estimated amount of funds available for a given Collaboration Awards competition and the number of awards that we expect to make.

(2) A Collaboration Award grantee must use the award funds to carry out one or more of the following activities:

(a) continuing the collaboration model or models for which it received the award, as described in its grant application; (b) modifying the collaboration model or models for which it received the award, as described in the application; (c) expanding the collaboration model or models for which it received the award by adding additional areas of collaboration, as described in the application; or (d) expanding the collaboration model or models for which it received the award by adding additional partners (schools or LEAs), as described in the application.

Collaboration Award grantees also must use award funds to disseminate information about the collaboration activities

to other public schools, including chartered schools, non-chartered schools, and non-chartered LEAs. All activities carried out under the Collaboration Awards must fall within the scope of authorized activities set forth in section 5205(a) of the ESEA.

PROPOSED SELECTION CRITERIA

Background:

The selection criteria we propose are designed to-- (1) support collaborations between charter schools and non-chartered public schools and non-chartered LEAs that are most effective in raising student outcomes and creating efficiencies; (2) further the CSP's mission of increasing national understanding of the charter school model; and (3) expand the number of high-quality charter schools.

Selection Criteria

The Secretary proposes the following selection criteria for Collaboration Awards competitions and further proposes that we may apply one or more of these criteria alone or in combination with one or more selection criteria (1) based on the CSP authorizing statute or (2) in 34 CFR 75.210, in any year in which this program is in effect. In the notice inviting applications or the application package, or both, we will announce the maximum possible points assigned to each criterion.

The Secretary could make awards to the top-rated applications proposing to carry out activities in specific areas of focus (e.g., curriculum and instruction, data management and sharing, organization and management) within the scope of authorized activities under section 5205(a) of the ESEA. In a particular year, the Secretary may restrict applications to one or more areas of focus. Additionally, in making awards, the Secretary could fund applications out of rank order in order to ensure that the Collaboration Awards are distributed throughout each area of the Nation or a State.

(1) Record of and potential for success. (A) The extent to which the applicant's past or existing collaboration model or models have improved educational outcomes and operational practices, and (B) the extent to which the applicant's proposed collaboration model or models and dissemination plan will achieve one or more of the following demonstrable results:

(i) Improved operational practices and productivity among all partners;

(ii) Improved student achievement (as defined in this notice);

(iii) Improved high school graduation rates;

(iv) Improved rates of college matriculation and college graduation; or

(v) Improved rates of attendance and graduation from other postsecondary (i.e., non-college) institutions or programs.

Note: In the notice inviting applications or the application package, or both, we may assign points individually to the factors listed under this selection criterion.

Note: The Secretary invites comment on this criterion particularly with respect to measures that might be used to determine the extent to which an applicant's proposed collaboration model or models and dissemination plan will achieve improved operational practices and productivity among all partners.

(2) Quality of the project design. The extent to which the applicant proposes a high-quality plan to use its award money to improve educational outcomes and operational practices in public schools, including charter schools.

(3) Potential for scalability. The extent to which the applicant's proposed collaboration model or models can be replicated or adapted beyond the participating partners by other public schools or non-chartered LEAs and sustained long-term.

(4) Innovation. The extent to which the applicant demonstrates that its proposed collaboration model or models, as well as its dissemination plan, are either (a) substantially different from other efforts in its area of focus; or (b) substantially more effective than similar efforts in its area of focus.

Final Definitions, Requirements, and Selection

Criteria:

We will announce the final definitions, requirements, and selection criteria in a notice in the Federal Register. We will determine the final definitions, requirements, and selection criteria after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing priorities or additional definitions, requirements, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use one or more of these proposed definitions, requirements, and selection criteria, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3 (f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practical--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of

compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavior changes."

We are taking this proposed regulatory action only on a reasoned determination that the benefits justify the costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. The Department believes that this proposed regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental

functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits of this regulatory action. The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Paperwork Reduction Act of 1995:

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

We estimate that each applicant would spend approximately 176 hours of staff time to address the

proposed requirements and selection criteria, prepare the application, and obtain necessary clearances. The total number of hours for all expected applicants is an estimated 7,040 hours. We estimate the total cost per hour of the applicant-level staff who will carry out this work to be \$57 per hour. The total estimated cost for all applicants would be \$401,280.

We have submitted an Information Collection Request (ICR) for this collection to the Office of Management and Budget (OMB). If you want to comment on the proposed information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for U.S. Department of Education. Send these comments by e-mail to OIRA_DOCKET@omb.eop.gov or by fax to (202) 395-6974. You may also send a copy of these comments to the Department contact named in the ADDRESSES section of this notice.

In preparing your comments you may want to review the ICR, which we maintain in the Education Department Information Collection System (EDICS) at <http://edicsweb.ed.gov>. Click on "Browse Pending Collections." This proposed collection is identified as proposed collection 1855-NEW. This ICR is also available on OMB's RegInfo Web site at www.reginfo.gov.

We consider your comments on this proposed collection of information in--

- Deciding whether the proposed collection is necessary for the proper performance of our functions, including whether the information will have practical use;

- Evaluating the accuracy of our estimate of the burden of the proposed collection, including the validity of our methodology and assumptions;

- Enhancing the quality, usefulness, and clarity of the information we collect; and

- Minimizing the burden on those who must respond. This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

OMB is required to make a decision concerning the collection of information contained in these proposed definitions, requirements, and selection criteria between 30 and 60 days after publication of this document in the Federal Register. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives your comments on the proposed collection by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This does not affect the deadline for your comments to us on the proposed definitions,

requirements, and selection criteria.

Please note that a Federal agency cannot conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number. We will provide the OMB control number when we publish the notice of final definitions, requirements, and selection criteria.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on

request to the contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 20, 2012

James H. Shelton, III,
Assistant Deputy Secretary for
Innovation and Improvement.

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